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Chair: Mr. Gafoor ..... (Singapore)

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The meeting was called to order at 10.15 a.m.

Agenda item 84: The rule of law at the national and international levels (*continued*) (A/72/86 and A/72/268)

1. **Mr. Paudyal** (Nepal) said that his delegation attached great importance to the rule of law at the national, regional and international levels and firmly believed that it was the foundation of good governance, peace and stability. Nepal reiterated its unflinching adherence to the purposes and principles enshrined in the Charter of the United Nations and strongly upheld the principles of sovereign equality, peaceful co-existence, non-interference in the internal affairs of States, prohibition of the threat or use of force and peaceful settlement of international disputes. Nepal firmly believed in equal participation of all States in the international law-making process. The challenges posed by terrorism and transnational organized crime had increasingly undermined efforts to promote rule of law at the national and international levels. Such threats demanded increased and coherent international and regional cooperation.

2. Nepal was a party to 24 different human rights instruments and had incorporated them into its national legislation. In 2016, it had ratified the Paris Agreement on climate change. It had recently adopted two comprehensive new legislative texts, the criminal procedure code and the civil code, which had aligned existing laws with international legislation and practices and were aimed at strengthening the rule of law and ensuring accountability in the event of both civil and criminal liability.

3. The democratic and inclusive Constitution guaranteed the protection of human rights, adherence to the rule of law and the independence and competence of the judiciary. Promoting tolerance, respecting social and cultural diversity and ensuring the inclusion of all segments of society were deeply ingrained in the Constitution. Special measures had been taken to bring disadvantaged groups into the mainstream: institutions had been established to protect the rights of women, children, indigenous groups, minorities, Dalits, Madhesi and other disadvantaged groups. With a view to ensuring access to justice for all, the judiciary network had been expanded across the country and free legal aid services had been made available to those who could not afford legal expenses.

4. His delegation acknowledged the strong interrelationship between the rule of law and development and remained committed to the implementation of Sustainable Development Goal 16.

5. **Mr. Mikeladze** (Georgia) said that in December 2016, Parliament had adopted judicial reforms entailing clear guarantees of non-interference with judicial decisions, including through automatic and electronic distribution of cases to ensure the impartiality of court presidents when assigning cases to individual judges. Legal aid programmes were a central component of strategies to enhance access to justice. A new law reinforced social guarantees for public lawyers and ensured the independence, accountability and transparency of the legal aid service, which was now an independent institution accountable directly to Parliament. New legal consultation centres had been opened in mountainous areas and in regions populated by ethnic minorities. His country's goals were now to enhance citizen engagement and citizen-centred governance, advance transparency and the fight against corruption and generate innovation in public service delivery.

6. Georgia had been effectively cooperating with the International Criminal Court since the Prosecutor had announced the preliminary examination of the 2008 war situation in Georgia. As an enabling factor for full-fledged cooperation with the Court, Georgia had put in place adequate implementing legislation for the Rome Statute of the International Criminal Court. Georgia fully subscribed to the notion that without the rule of law and accountability, impunity reigned and neither justice nor peace could be achieved. Strengthening and promoting the rule of law was a common responsibility of the international community.

7. **Mr. Varankov** (Belarus) said that the provision of assistance in enhancing the rule of law must be based on an acknowledgement that a wide variety of arrangements might be used and must conform to the national priorities of Member States. Resident coordinators and other field representatives of the United Nations, who often had unique knowledge of specific local situations, took on a particularly important role as intermediaries between governments and the Secretariat. It was important to understand that United Nations support for national efforts to strengthen the rule of law did not mean that they should be replaced with universal models whose viability was dubious.

8. Ensuring the rule of law at the international level depended on unswerving adherence by the United Nations to the standards it itself promoted. Hence the importance of transparency and accountability in the functioning of the Secretariat and its funds and programmes. The recommendations contained in the review of the regulations to give effect to Article 102

of the Charter of the United Nations (A/72/86) were progressive and of practical value.

9. While acknowledging the growing importance of information technology in the publication of data on treaty registry, his delegation considered that the day-to-day work of staff in the Treaty Section of the Office of Legal Affairs to disseminate information on international law was of inestimable value.

10. A key role in his country's own efforts in that area was played by the Ministry of Foreign Affairs, which coordinated the adoption of international treaties and provided expertise on instruments drafted by other branches of the Government. In cooperation with the United Nations Conference on Trade and Development (UNCTAD) and the United Nations Commission on International Trade Law (UNCITRAL), the Ministry regularly held conferences on international trade and investment law in order to enhance the understanding of those subjects among governmental experts, scientists and scholars, arbitral institutions and courts, and students. The Council of Ministers had a committee that was responsible for the coordination of government efforts to incorporate international humanitarian law into national legislation and to promote the dissemination of knowledge about international humanitarian law and its development.

11. **Mr. Musayev** (Azerbaijan) said that greater efforts were needed to ensure a unified approach to the rule of law and to address the major threats and challenges that continued to affect the basic elements of the international legal order. Under the principle of the peaceful settlement of disputes, States were expected to respect each other's sovereignty, territorial integrity and political independence and to refrain from the threat or use of force. Conflict prevention and settlement frameworks and mechanisms must not be used as a tool to entrench situations achieved as a result of aggression and ethnic cleansing or to promote solutions that were, a priori, illegal. Attempts to impose or encourage such solutions would fail to provide the foundations necessary for sustainable peace and long-term stability.

12. As the principal judicial organ of the United Nations, the International Court of Justice played an important role in promoting the rule of law and encouraging the settlement of international disputes by peaceful means. The Court's advisory opinions on legal questions could help to ensure that settlement efforts were in line with international law, especially in situations where actions in contravention of the Charter and international law were accompanied by apparent misinterpretation of legal norms and principles.

13. The need to shed light on real facts and to combat impunity was undeniable. Such efforts must be free of selectivity and politically motivated approaches. However, the harsh reality was that, where political interests prevailed, international law and commitments became ineffective. Double standards in the application of the principles guiding inter-State relations contributed to instability and obstructed conflict resolution efforts.

14. In some situations of armed conflict, including those of a protracted nature, issues of accountability for violations of international humanitarian and human rights law had not received due attention or a response at the international and regional levels. As a result, wrongs of the recent past, left unpunished and unrecognized, continued to impede progress in achieving long-awaited peace and reconciliation. Among the possibilities for ensuring accountability, the involvement of ad hoc and mixed tribunals, as appropriate, could benefit national efforts to pursue justice.

15. In conclusion, he recalled that, in order to achieve the goal of the rule of law, it was critical to uphold fundamental principles, adhere to the uniform application of international law and ensure strict compliance with international obligations.

16. **Ms. Bourhil** (Tunisia) said that in view of the current situation worldwide, marked by the proliferation of conflicts and global threats, it was essential to undertake all efforts conducive to placing the prevention of conflicts at the centre of United Nations actions, including through the strengthening of international, regional and subregional mechanisms for the peaceful settlement of disputes and the dissemination of international law.

17. Tunisia was steadily consolidating its progress towards incorporating the rule of law and establishing democratic institutions. The 2014 Constitution had marked a new chapter in modern Tunisian history, with the emergence of a democratic political system that upheld progressive principles and the separation of powers. It was with the aim of consolidating democracy under the Constitution that institutions had been set up a to ensure good governance and to combat corruption.

18. Important steps forward had recently been made to enshrine freedom of conscience and equality before the law. A law concerning the marriage of Tunisian women to non-Muslims, which had been contrary to the international conventions ratified by Tunisia and to the spirit of the Constitution, had been abrogated,

while a new law prohibiting all violence against women had been adopted.

19. Respect for the rule of law had an undeniable impact on reducing inequity, promoting gender equality and creating reputable and solid institutions. The report of the Secretary-General (A/72/268) outlined the impact of United Nations assistance to Tunisia's transitional justice mechanisms in promoting the rule of law; it also described joint work to strengthen the legislative arsenal concerning children's rights and improved access to justice for children. The United Nations played a pivotal role in promoting the rule of law, thanks to the platform it offered for new partnerships.

20. **Mr. Adejola** (Nigeria) said that his delegation commended the Office of Legal Affairs and its specialized divisions for their work to disseminate information on international law and treaty law and practice. The use for that purpose of the electronic treaty database and the organization of capacity-building seminars at different levels were helpful initiatives. The publication of bulletins on relevant legal materials had further strengthened and promoted an understanding of the principles of the rule of law.

21. Nigeria especially appreciated the work of the Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law, which had truly contributed towards better knowledge of international law. United Nations bodies whose mandates related to the law of the sea must work more closely with the Programme. In particular, the facilitators of the Programme should more extensively integrate issues relating to the International Seabed Authority in the Programme's content and help the Authority to reach out to different sectors of societies that did not yet fully understand and appreciate the importance of its work.

22. Adherence to and respect for the rule of law must reinforce collective responses to global challenges, including climate change, environmental protection and the settlement of conflicts. The rule of law was intrinsic to such topics as good governance, democratic practice, accountability, the fight against impunity, the protection of civilians in armed conflict, the situation of women and children, terrorism and transnational crimes. For those and other reasons, the promotion of the rule of law at the national and international levels should be a shared responsibility.

23. For Nigeria, the rule of law was a fundamental article in national jurisprudence and a pivotal principle of governance. The National Human Rights Commission had been established to create an enabling environment for the promotion, protection and enforcement of human rights in furtherance of the principles of the rule of law. The work of the various anti-corruption agencies was meant to ensure that due process was always observed and access to justice was available to all. Only recently, the Chief Justice had directed heads of court to set up what were essentially separate courts to try people accused of financial crimes.

24. His delegation underlined the need for national ownership of every effort aimed at strengthening the national capacities of Member States for the promotion of the rule of law and the provision of technical assistance and capacity-building towards that end. The international community must work together to attain a world where the rule of law, accountability and social justice were the foundation for sustainable development and durable peace.

25. **Mr. Waweru** (Kenya) said that the dissemination of international law had been greatly facilitated in the digital era by the vast array of tools and platforms offered by the Internet. The Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law played an important role, especially in the developing countries, and Member States should ensure that it received regular budget funding from the United Nations.

26. In order to be effective, capacity-building and activities related to the rule of law should be anchored by two principles, namely determining needs and priorities and local or national ownership. Those principles required partnership and mutual respect between the providers and recipients, while taking into account the customs, political and socioeconomic realities and laws of each recipient State.

27. The rule of law could not exist without a transparent legal system: laws that were freely and easily accessible to all, strong enforcement structures and an independent judiciary to protect citizens against the arbitrary use of power. The rule of law enabled people and institutions to fulfil their dreams and aspirations, individually and collectively. It could generate economic reform and unlock the social, political and economic potential of societies.

28. Local, regional and international governmental and judicial institutions should contribute to the rule of law by ensuring that the international legal instruments adopted by States were interpreted and implemented in a fair, just and predictable manner.

29. **Mr. Hasebe** (Japan) said that the essence of the rule of law lay in the supremacy of law over arbitrary

power and in ensuring that power was exercised to protect and benefit the people. The International Court of Justice, the International Tribunal for the Law of the Sea and the International Criminal Court were vital to ensuring the rule of law and the peaceful settlement of disputes, and Japan had provided both human and financial resources to support them.

30. His country had undertaken a broad range of rule of law support activities, both domestically and internationally. It had prioritized support for international rule-making and legal procedures in areas as diverse as trade, criminal justice and maritime law. In 2020, Japan was to host the fourteenth United Nations Congress on Crime Prevention and Criminal Justice, during which the priority areas would include institution-building to promote the rule of law and fostering a culture of lawfulness.

31. Turning to Japan's international assistance efforts, where rule-making met implementation on the ground, he said that his country had helped with capacity-building for the police in Cambodia and Timor Leste and was now working to strengthen criminal justice systems and rules-based local governance in West Africa and the Sahel.

32. **Mr. Arriola Ramírez** (Paraguay) said that his country was committed to the rule of law and had incorporated into domestic legislation a number of international legal and human rights instruments. Legislative texts were being developed with a view to the ratification of the Rome Statute of the International Criminal Court and the Kampala amendments. The United Nations had provided support for strengthening the Paraguayan legislative framework on environmental protection. An inter-agency coordinating committee on the achievement of the Sustainable Development Goals had recently been set up. At the international level, Paraguay had participated in negotiations on such subjects as the prohibition of nuclear weapons.

33. The rule of law was of vital importance in furthering the three pillars of the United Nations: international peace and security, human rights and development. It should be a tool to strengthen political dialogue among States, help find peaceful solutions to international disputes and combat impunity for international crimes.

34. **Mr. Sandoval Mendiolea** (Mexico) said that to speak of the rule of law was to speak of justice, good governance and accountability, but also of fostering just, peaceful and inclusive societies. He welcomed the fact that the Secretary-General's latest report (A/72/268) covered some of the current challenges to the rule of law, such as displacement and migration. More and more people worldwide, among them the thousands of Mexicans living outside the country, were being affected by policies and practices recently adopted by certain countries. Such actions must be reviewed in the light of international human rights standards. States that violated the human rights of migrants were repudiating the relevant treaty mechanisms and judicial processes. Mexico was also concerned over the recent events in Myanmar. Any use of force by the authorities must take place in compliance with international human rights standards, ensure the security and protection of all communities and uphold the rule of law without discrimination.

35. The International Court of Justice was instrumental in the prevention and peaceful solution of disputes, and its capacities in that area must be strengthened. The number of States that accepted its compulsory jurisdiction must be increased, provisions on jurisdiction must be included in treaties and the mechanism of *forum prorogatum* must be brought into play.

36. In addition to having signed the Treaty on the Prohibition of Nuclear Weapons, Mexico supported the negotiation of a legally binding instrument on the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction, for which purpose the General Assembly must convene a conference in 2018.

37. Lastly, his delegation supported the idea of reviewing the regulations to give effect to Article 102 of the Charter, since some were now outdated owing to technological developments.

38. **Archbishop Auza** (Observer for the Holy See), recalling the emphasis placed by Pope Francis on the need to have a tangible impact on the most vulnerable and marginalized members of the human family, said that his delegation welcomed United Nations efforts to improve access to justice for populations that were disempowered and deprived of their rights, voice and representation. Such efforts included promoting access to mobile and specialized courts and to customary rural courts, which played an important role in local arbitration and community reconciliation. Justice must be made more effective and accessible, without discrimination. In that regard, further cooperation and mutual assistance among States and with international organizations were critical.

39. The international legal framework had been expanded into a range of areas, including climate change, biological diversity, human rights, trafficking in persons, corruption and arms control. However, real progress would occur only when States expanded their

focus beyond formal accession to international norms and ensured that the norms became a practical reality on the ground.

40. The rule of law could not be strengthened with a view to achieving justice unless those associated with legal institutions were able to perform their duties with independence and neutrality, free from pressure, harassment, corruption or persecution. His delegation noted with concern a widespread rise in retaliation and reprisals against lawyers and judges who strove to apply the law in the service of justice. In such cases, it was the very foundations on which the rule of law was built that were jeopardized.

41. **Mr. Bamya** (Observer for the State of Palestine) said that his delegation was often asked how Palestine would act once it became a member of the United Nations. The actions taken after the adoption, by an overwhelming majority, of General Assembly resolution 67/19 granting observer State status to Palestine were indicative of its values and objectives. One of the first decisions taken had been to join the core human rights conventions, with no reservations. Palestine had also acceded to conventions in such fields as international humanitarian law, disarmament, environment, the law of the sea and diplomatic and consular relations.

42. Since much work still needed to be done to improve its own accountability mechanisms, Palestine had entrusted international mechanisms with assessing violations and crimes in Palestine without restrictions. It had pursued the establishment of fact-finding and inquiry commissions by the Human Rights Council and joined the International Criminal Court, contributing to its indispensable universality. In all those efforts, Palestine's message was clear: "We seek justice, not vengeance."

43. The State of Palestine had been among the first to ratify the Paris Agreement on climate change. It had been the thirtieth State to ratify the Kampala amendments on the crime of aggression, thus fulfilling one of the two requirements to allow for activation of the International Criminal Court's exercise of jurisdiction over that crime. More recently, Palestine had participated in the conference to elaborate a treaty to prohibit nuclear weapons, had voted for its adoption and had been among the countries that had signed the treaty on the first day it had been open for signature.

44. The State of Palestine had established a ministerial committee to ensure respect for the international instruments it had acceded to, and had also set up a subcommittee to enhance its efforts to replace a fragmented, often outdated legislative reality inherited from several historical eras with legislation compatible with its declaration of independence and with international law. The Independent Commission for Human Rights, one of the most respected in the region and the world, chaired national consultations over the State's reports to treaty bodies on the implementation of human rights conventions. Civil society organizations were fully associated with the Commission's work.

45. The State of Palestine had also decided to set up a national committee for international humanitarian law in order to foster respect for the Geneva Conventions of 1949, their additional protocols and all other relevant instruments. It had disseminated the texts of the Conventions to the public, through official and non-official institutions, and had made a simplified version of the Universal Declaration of Human Rights available to all schools. However, true dissemination was not of the texts, but of the spirit, with the aim of empowering people to know, claim and defend their rights and to ensure that the legislative, executive and judiciary branches were committed to protecting those rights.

46. The State of Palestine was still under military and colonial occupation but had taken the bold decision not to wait for independence in order to uphold its international obligations. It was an integral member of the community of nations, committed to the advancement of humankind, inspired in that effort by the tragedies it had endured and continued to endure and by the hope to achieve freedom and dignity for all in Palestine.

47. **Mr. Civili** (Observer for the International Development Law Organization (IDLO)) said that in the past year his Organization had adopted a new strategic plan built around two overarching themes: access to justice together with equality and inclusion. Its main thrust was to address the underlying factors that made institutions and people vulnerable, impeded socioeconomic progress and its sustainability and perpetuated inequalities, gender violence and discrimination, social exclusion and marginalization. It was, in other words, a vision of the rule of law that sought to advance the objectives of access to justice and constructing peaceful, inclusive societies.

48. IDLO was pursuing the new plan while remaining faithful to the principles that had always guided its work: respect for the plurality and equal value of different legal systems; a focus on national implementation of international law and international norms; and capacity-building and country ownership as a guiding tenet of operational work. Its portfolio of

programmes had continued to expand during the past year, becoming more geographically balanced and increasingly results-focused. There were currently some 60 projects under implementation in 28 countries, with some €100 million having been allocated to countries at different stages of development, but with a continuing focus on the provision of institutional support to countries emerging from conflict. Meanwhile, the Organization's membership had been steadily growing, from 18 in 2008 to an anticipated 34 by the end of 2017.

49. The conference organized in June 2016 in Dar es Salaam by IDLO and the Government of the United Republic of Tanzania and with the support of the Government of Italy had proved to be instrumental in imparting a new momentum to activities in support of sustainable development in Africa and in generating synergy and mutual support among African countries in furthering access to justice and the rule of law. An excellent example was the establishment of the African Centre of Excellence for Access to Justice, intended to promote collaboration and dialogue between the judiciary and community justice institutions in Africa.

50. An innovative initiative devoted to addressing the special needs of the least developed countries was the Investment Support Programme for the Least Developed Countries, conceived as a genuine public-private partnership for the provision on demand, on a pro bono or reduced-fee basis, of legal services in the negotiation of investment contracts or agreements and in investment-related dispute resolution. The European Union had pledged an initial €1 million in support of the Programme, and a significant number of legal firms and experts worldwide had indicated their readiness to partner with it.

51. IDLO strongly supported measures towards greater effectiveness, coherence and sustainability in international rule of law activities within the United Nations and, although the Organization was not formally part of the United Nations system, it was ready to contribute actively to that effort.

52. **Ms. Gottlieb** (Observer for the International Chamber of Commerce (ICC)), noting that it was the first time that the International Chamber of Commerce was participating in the Sixth Committee's meetings since gaining observer status in the General Assembly, said that respect for the rule of law was the foundation for cooperation among all nations. Delegates from developing States with limited resources had indicated that assistance that went beyond access to international law was imperative. Training, workshops and bilateral or multilateral assistance which furthered the understanding and application of the rule of law would greatly accelerate compliance with international law.

53. One innovative capacity-building initiative was the Investment Support Programme for the Least Developed Countries just referred to by the representative of IDLO. Her organization was ready to explore how best the private sector could collaborate with IDLO and other stakeholders to contribute to the success of the programme. Such inclusive initiatives that maximized the potential of partnerships would complement and strengthen the work of the United Nations.

54. The United Nations played an essential role in fostering international law in response to complex and difficult global challenges such as climate change. ICC looked forward to finding innovative ways to enhance private sector engagement and to establish genuine and durable partnerships with various stakeholders.

55. **Mr. Yaremenko** (Ukraine), speaking in exercise of the right of reply, said that in the context of the rule of law, he could have talked of many things. He could have talked about the international multilateral and bilateral agreements violated by Moscow; the decision to use the armed forces of the Russian Federation on the territory of Ukraine; the Russian President's initial claim, subsequently retracted, that no Russian armed forces had ever been present in the territory of Ukraine; the dozens of Russian soldiers captured in the territory of Ukraine, documentary evidence of which had been presented by the President of Ukraine during a recent Security Council meeting; and a number of other legal points. However, he simply wished to explain to the delegation of the Russian Federation that Ukraine would continually raise the issue of Russian aggression until the aggression ceased. He appealed to the representatives of the Russian Federation to think about how they would explain Russia's actions of the past few years to their children and grandchildren. Was it really appropriate for them to rejoice in having stolen a part of a neighbouring country's territory?

Agenda item 78: Criminal accountability of United Nations officials and experts on mission
(A/72/121, A/72/126, A/72/205)

56. **Mr. Al Habib** (Islamic Republic of Iran), speaking on behalf of the Non-Aligned Movement, said that the Movement attached great importance to the issue of criminal accountability of United Nations officials and experts on mission. The countries of the Non-Aligned Movement contributed more than 80 per cent of the peacekeeping personnel in the field and were also the major beneficiaries of peacekeeping

missions. Peacekeeping personnel must continue to perform their duties in a manner that preserved the image, credibility, impartiality and integrity of the Organization. The Movement emphasized the importance of maintaining a policy of zero tolerance in addressing all cases of sexual exploitation and abuse committed by peacekeeping personnel.

57. Full implementation by all Member States of General Assembly resolution 71/134 and previous General Assembly resolutions could help close jurisdictional gaps, strengthen accountability mechanisms and contribute to guaranteeing due process with respect to investigations of sexual exploitation and abuse. Member States should exercise their jurisdiction in applicable cases to ensure that criminal acts did not go unpunished. It was crucial that the State of nationality acted in a timely manner to investigate and prosecute alleged crimes. All States must provide information to the United Nations on any such referrals. An assessment of the need for any further measures by the General Assembly could subsequently be undertaken. Important policy and remedial measures had been agreed but must still be implemented. Progress must also be made on short-term measures.

58. The Non-Aligned Movement was concerned about alleged crimes on the part of United Nations officials and experts on mission, including allegations of corruption and other financial crimes. The Secretary-General should continue to ensure that his zero-tolerance policy for criminal activities, including sexual exploitation and abuse and corruption, was made known to all United Nations personnel on mission, especially those in managerial positions. States must take all appropriate measures to ensure that such crimes did not go unpunished and that the perpetrators were brought to justice.

59. It was still premature to discuss a draft convention on criminal accountability of United Nations officials and experts on mission. For the time being, the Committee must focus on substantive matters and leave matters of form for a subsequent stage.

60. **Mr. Bessedik** (Algeria), speaking on behalf of the African Group, said that the Group supported the Secretary-General's zero-tolerance policy with regard to criminal conduct, especially sexual exploitation and abuse, by United Nations officials or experts on mission. Criminal accountability was a pillar of the rule of law, and it was crucial to the Organization's integrity, effectiveness and credibility. A clear signal must be sent that criminal behaviour was not tolerated. Member States should exercise jurisdiction in applicable cases to ensure that criminal acts did not go unpunished.

61. Jurisdictional gaps, in situations where the host State was unable to exercise its jurisdiction with respect to an alleged offender and the State of nationality of the alleged offender could not assert its jurisdiction over crimes committed in the host State, could be remedied by the measures adopted in several General Assembly resolutions, if properly implemented. While some Member States expressed a preference for a predominant role to be played by the host State, the African Group and other States preferred to emphasize the role of the State of nationality. The United Nations was to be commended for its efforts to refer cases of possible crimes of a serious nature to the State of nationality.

62. The African Group welcomed the steps taken by the United Nations to provide training on standards of conduct, including predeployment and in-mission induction training and awareness-raising programmes, as well as the technical assistance offered by the United Nations to States requesting support in developing their domestic criminal law. United Nations expertise went a long way towards developing and strengthening national capacities to investigate and prosecute serious crimes, especially in the context of mutual legal assistance and extradition. The Group encouraged States to cooperate with each other in criminal investigations and extradition proceedings involving serious crimes committed by United Nations officials and experts on mission.

63. **Mr. Jaime Calderón** (El Salvador), speaking on behalf of the Community of Latin American and Caribbean States (CELAC), said that any misconduct, especially criminal behaviour, committed by United Nations personnel on mission was unacceptable. Such acts were particularly serious because of the nature of the perpetrators' functions and the vulnerability of the victims; moreover, they undermined the image, credibility, impartiality and integrity of the United Nations.

64. CELAC took note of the reports of the Secretary-General on criminal accountability of United Nations officials and experts on mission (A/72/121, A/72/126 and A/72/205).

65. CELAC was aware of allegations, as in previous years, of sexual abuse and excessive use of force by some peacekeepers. The international community must do much more to ensure that such crimes did not go unpunished. CELAC reiterated its full support for a

zero-tolerance policy in cases of sexual exploitation and abuse and other criminal conduct.

66. CELAC drew attention to the report of the Secretary-General of 28 July 2017 (A/72/205), Section IV of which dealt with cooperation among States and with the United Nations in the exchange of information and the facilitation of investigations, and the protection of witnesses in that process. He also stressed the importance of receiving continuous statistics from the Secretariat on substantiated allegations. Improving on the reporting practice would benefit the understanding of the problem so that it could be properly addressed. The Secretariat should continue to work to improve the quality of information regarding possible criminal offences and to communicate such information immediately to the States concerned. The reporting process must be implemented effectively and efficiently.

67. CELAC urged States to which cases had been referred to ensure proper follow-up and to inform the Secretary-General of the actions taken by national authorities, including prosecution where appropriate; for its part, the Organization should likewise follow up on those actions.

68. The Secretary-General and all Member States shared responsibility for taking measures to prevent and punish criminal acts committed by United Nations personnel and to enforce standards of conduct. It was important to continue the dialogue with the Secretariat on the training and capacity-building of United Nations officials and experts on mission, and to take steps to prevent the abuse of privileges and immunities.

69. CELAC looked forward to the results of the implementation of the accountability framework developed by the Secretariat to measure the performance of field missions in connection with indicators relating to conduct and discipline. Attention should also be given to addressing other challenges, such as investigations in the field and during criminal proceeding, and the gathering and assessment of evidence in administrative and jurisdictional procedures, which must be conducted bearing in mind the interests of the alleged victims and the right of the accused to due process. United Nations personnel must comply with United Nations policy guidelines regarding their expected standards of conduct, including those set out in documents A/67/775 and A/67/828.

70. **Ms. Aching** (Trinidad and Tobago), speaking on behalf of the Caribbean Community (CARICOM), said the Community was deeply appreciative of the sacrifices and tireless efforts of United Nations experts and officials on mission. In the CARICOM region, Haiti had benefited immensely from the United Nations Stabilization Mission in Haiti (MINUSTAH), which had assisted Haitian authorities in such areas as electoral support, strengthening of the rule of law, human rights monitoring and training of the National Police.

71. CARICOM underlined the importance of ensuring respect for the rule of law, consistent with General Assembly resolution 71/134. The privileges and immunities of United Nations officials and experts on mission were for their protection and were certainly not to be used as licence to commit crimes with impunity.

72. The Community expressed deep concern and abhorrence over cases of misconduct and sexual abuse of women and children by United Nations officials and experts on mission. The exploitation of the most vulnerable by persons sent to protect them was a fundamental betrayal of trust, further compounded when the perpetrators were not brought to justice. CARICOM therefore welcomed the Secretary-General's commitment not to tolerate the commission or condoning of sexual exploitation and abuse. The Community urged him, consistent with resolution 71/134, to continue to ensure that his zero-tolerance policy for criminal activities such as sexual exploitation was fully implemented in a coherent manner throughout the United Nations system.

73. With a view to ensuring that those accused of committing such offences were brought to justice, States which had not yet done so must establish jurisdiction over crimes committed by nationals while serving on missions. CARICOM urged States to adopt the necessary measures to ensure that internal disciplinary mechanisms were in place and were harmonized with United Nations standards of investigation in order to support better action by local authorities. Perpetrators of such heinous crimes must be held accountable for their actions. CARICOM also urged States to cooperate in providing assistance with criminal investigations or extradition proceedings with respect to crimes of a serious nature committed by United Nations officials and experts on mission as well as in ensuring the protection of victims. All cases of suspected misconduct or criminal offences must be reported.

74. Consistent with General Assembly resolution 71/134, CARICOM underlined the need to ensure that all personnel were properly vetted by contributing States and the Organization for any prior misconduct while serving on previous missions. Personnel and

experts on mission must receive training on the need to respect the laws of the host State and United Nations standards of conduct, and they must be made aware of the consequences of failing to do so. CARICOM commended the United Nations for its efforts in that regard.

75. The Community reiterated the importance of abiding by the principles of international law, due process and the Organization's rules and regulations when dealing with any allegation of misconduct or criminal offence committed by United Nations personnel on mission.

76. **Ms. Mezdrea** (Observer for the European Union), speaking also on behalf of the candidate countries Albania, Montenegro, Serbia, Turkey and the former Yugoslav Republic of Macedonia and, in addition, Georgia, the Republic of Moldova and Ukraine, said that the European Union was concerned about crimes committed by United Nations officials and experts on mission, including sexual exploitation and abuse, corruption, fraud and other financial crimes. It continued to support the Organization's policies of zero tolerance and zero impunity for sexual exploitation and abuse by United Nations military, police and civilian personnel. Impunity was detrimental to the credibility and effectiveness of the United Nations; it undermined the trust of local communities and deprived victims of justice.

77. The primary responsibility for bringing perpetrators to justice rested with Member States. The State of nationality of an alleged offender must be promptly informed and consulted by the United Nations; that State must act in a timely manner, establish and exercise jurisdiction, investigate and, where appropriate, prosecute. The European Union regretted that the majority of referrals of allegations since 2008 remained outstanding, as little or no information had been forthcoming from the States of nationality. All States must provide information on referrals as soon as possible, including the reasons why investigations and/or prosecutions had not been pursued. The United Nations cooperated with law enforcement and judicial authorities. States exercising jurisdiction should make use of that framework of cooperation and ensure that referred cases were acted upon by the competent authorities. The European Union welcomed the follow-up on referrals by the Secretariat in 2017 and urged that the practice be continued.

78. Training on United Nations standards of conduct was an indispensable preventive measure. The European Union welcomed the efforts to support strengthening activities in that area, such as predeployment and in-mission training of personnel on human rights, international humanitarian law, gender-based violence and civilian protection. It also welcomed the mandatory e-learning programme on sexual exploitation and abuse launched at the end of 2016 and commended the awareness-raising efforts of the Department of Field Support aimed at increasing understanding and knowledge of the standards of conduct and discipline as well as transparency and clarity in the presentation of data.

79. She noted that the report of the Secretary-General of 29 June 2017 (A/72/121) referred to the existence of several rules and procedures and of different reporting mechanisms due to fragmentation within the United Nations system. In such a context, it was difficult to get a clear picture of United Nations accountability mechanisms. Such mechanisms should be streamlined with the aim of unifying and harmonizing criteria, policies and procedures and determining potential gaps across the entire system. The strongest and most effective mechanisms should be adopted to tackle criminal activities by United Nations officials and experts on mission.

80. The European Union was concerned by the increasing number of allegations of corruption, fraud and theft, which represented 32 of the 38 newly referred cases during the current reporting period. Such actions meant that the Organization's funds were being stolen or diverted from its efforts to promote peace, security and sustainable development. She encouraged the Secretariat to continue promoting a culture of integrity and honesty within the Organization, including by providing guidance and information to staff members and other personnel on how the Secretariat acted to prevent, detect, deter, respond to and report on fraud and corruption. In that respect, the European Union welcomed the Secretary-General's approval of an updated United Nations whistle-blower policy to enhance protection for individuals who reported possible misconduct or cooperated with duly authorized audits or investigations.

81. The European Union remained ready to consider a proposal for a comprehensive international legal framework to clarify the circumstances under which Member States could exercise jurisdiction and the categories of individuals and crimes subject to that jurisdiction. To assess that possibility, more information should be provided by the Member States and the Secretariat. The European Union commended the Secretariat's efforts to gather such information and encouraged all Member States to respond as soon as possible.

82. **Ms. Neilson** (New Zealand), speaking also on behalf of Australia and Canada, said that United Nations officials and experts on mission played an important role in creating the conditions for lasting peace. They were trusted to use their positions of relative power to assist thousands of the most vulnerable people in the world. However, the deplorable acts of a few, and the failure to hold them accountable, intensified the suffering of the people they were charged to protect and undermined the reputation, credibility and integrity of the United Nations.

83. Although the issue had been under discussion for eleven years now, significant change was yet to be seen. Sexual exploitation and abuse, corruption, fraud and other financial crimes remained far too common. In 2017, 35 allegations had been referred to Member States for investigation — the greatest number of referrals per annum so far. It would be useful to learn whether that increase was due to a greater number of alleged crimes or to improvements in the referral processes. A number of United Nations officials and experts on mission had benefited from near total immunity because of the failure of both Member States and the Secretariat to develop adequate accountability processes.

84. The three countries commended the Secretariat for the compilation of relevant United Nations policies and procedures. It would be useful to undertake further analysis to assess how those policies and the interaction between them could be improved. The table of national provisions on extraterritorial jurisdiction (A/72/126, sect. II) was useful. Although both the territorial State and the State of the nationality of any victims could have jurisdiction, it was the State of nationality of the perpetrator that had the primary responsibility to investigate and prosecute credible allegations of criminal misconduct by United Nations officials and experts on mission.

85. Member States that had not yet done so should consider establishing jurisdiction for such cases, and all Member States should investigate allegations of criminal conduct by their nationals, hold perpetrators accountable, including through prosecution, and report on efforts made in that regard. They should also take preventive steps, such as predeployment training and screening. States should provide information on any obstacles to effective prosecution that they might encounter, whether jurisdictional, evidentiary or otherwise.

86. In closing the impunity gap, Member States and the United Nations must develop a culture in which the reporting of alleged crimes was encouraged and safeguards against retaliation were established.

87. The three countries supported, in principle, the proposal for a convention that would require Member States to exercise criminal jurisdiction over nationals serving in United Nations operations abroad, and they reiterated their call for continued implementation of the Secretary-General's zero-tolerance policy. No one should be above or outside the law.

88. **Mr. Kravik** (Norway), speaking on behalf of the Nordic countries (Denmark, Finland, Iceland, Norway and Sweden), said that, although the topic of criminal accountability of United Nations experts and officials had been on the Sixth Committee's agenda since 2006, its importance had not diminished; hence the need for both the United Nations and Member States to enforce a zero-tolerance policy for such crimes. The United Nations had taken important and timely steps over the past two years, such as the establishment in 2016 of the Office of the Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse and the Secretary-General's 2017 strategy to improve the system-wide approach to preventing and responding to sexual exploitation and abuse. Such steps could bring about change, but much still remained to be done before the Organization had fully implemented a zero-tolerance policy.

89. Principal attention was rightly placed on sexual exploitation and abuse, but any kind of criminality on the part of United Nations officials and experts on mission needed to be addressed, and effective measures for ensuring responsibility were imperative. Contributing States had primary responsibility for ensuring or establishing jurisdiction for serious crimes committed by their nationals while serving on United Nations missions. The Nordic countries encouraged all Member States to submit information to the Secretariat on the status of their domestic legislation in that regard, in accordance with General Assembly resolution 71/134.

90. The Nordic countries suggested the elaboration of a policy on minimal requirements for States that contributed officials and experts to United Nations missions. An essential requirement should be that all contributing countries must have the jurisdiction in place to be able to investigate and prosecute crimes committed by their personnel serving abroad. The Nordic countries remained ready to consider a proposal for a comprehensive international legal framework to ensure that such criminal conduct was addressed.

91. The Secretary-General's report of 28 July 2017 (A/72/205) showed that, since 1 July 2007, of the 124

cases referred to Member States, the latter had provided information to the Secretary-General on follow-up in their national jurisdictions in only 24 instances. That illustrated a general tendency not to handle such cases adequately, something which was totally unacceptable. On the positive side, however, the Secretary-General had received information on the status of investigations or prosecutions in 27 cases.

92. The resolution on the item must be amended to ensure inclusion in the report of information concerning which Member States had — and even more importantly which Member States had not — provided any feedback to the Secretary-General on follow-up.

93. It was vital to ensure accountability for persons who committed crimes while serving as United Nations experts and officials. The very credibility of the Organization was at stake. Anything less than full transparency regarding Member States' willingness and ability to hold their own nationals accountable for crimes committed while in the service of the United Nations was unacceptable. All Member States must uphold the principles of due process and the rule of law while investigating and prosecuting such cases, and it was equally important to ensure the effective protection of victims, witnesses and whistle-blowers.

94. **Ms. Carnal** (Switzerland), also speaking on behalf of Liechtenstein, said the two countries welcomed the fact that the Secretary-General's report of 12 July 2017 (A/72/126) provided specific information on the follow-up to criminal allegations. It was particularly gratifying to note that the Secretariat had followed up with the States concerned several times during the past year: that practice should be continued. The report also brought together previously dispersed information on how Member States exercised jurisdiction over their nationals who served as United Nations officials or experts on mission. However, given that only 57 States had provided feedback since 2007, the information remained incomplete. In an effort to shed further light on the issue, Switzerland had commissioned an independent study on the national rules in effect in 20 representative countries. It contained information on 12 States not included in the Secretary-General's report and would be made available to the Secretariat.

95. The Secretary-General had also prepared a report, dated 28 July 2017, on the policies and procedures regarding credible allegations that revealed that a crime might have been committed by an official or expert on mission (A/72/205). It turned out that criminal allegations were handled differently from one United Nations entity to the next, creating challenges for victims who wished to report a crime. Moreover, as noted in paragraphs 7 to 14 of the report, the different reporting mechanisms produced partially overlapping statistics, which made it difficult to produce an overview of all the cases potentially involving the accountability of United Nations officials and experts on mission.

96. A number of measures should be examined in order to improve the situation. A single report should compile information on all cases of crimes alleged to have been committed by United Nations officials and experts on mission, and not only information on cases referred to the State of nationality or notified by the States themselves. The policies and procedures for handling criminal allegations should be either unified or at least harmonized for all United Nations entities, which should systematically report to the Secretary-General any information in their possession about crimes that might have been committed by their staff. That would also enable the alleged victims to know the procedure to be followed.

97. The criteria used to determine whether a case should be referred to a State should be defined clearly and consistently in each entity. More emphasis should be placed on following up on cases referred to States, and the information should be collected in one place. Measures should be taken in each entity so that people who reported crimes were effectively protected, and the vetting of staff should be bolstered across the board. Finally, it was important to deliver a coherent and comprehensive response that covered all types of crime and all United Nations staff. The focus was currently on exploitation and sexual abuse, as well as on military personnel, but measures should be applied to other types of crimes as well, including financial ones, and to both civilian and police personnel.

98. An international convention could make it easier to prosecute the perpetrators of crimes in certain situations, but other concrete measures could be taken immediately, in the interests of the entire staff of the United Nations and of the Organisation itself.

99. **Mr. Umasankar** (India) said that his delegation welcomed the initiatives taken by the Secretary-General to address concerns over incidents of sexual exploitation and abuse reportedly committed by certain individuals involved with United Nations peacekeeping operations. India had been the first country to contribute to the trust fund set up in 2016 to assist victims of sexual exploitation and abuse and had made a contribution in 2017 as well.

100. A solution to the problem of accountability had remained elusive because of the complex legal aspects of the sovereignty and jurisdiction of Member States, the immunity or privileges that might be required for United Nations operations in a country and the functional capacity or willingness of Member States to investigate and prosecute the accused. The United Nations itself could take only disciplinary measures and did not exercise criminal jurisdiction. It was unclear whether investigations conducted by the United Nations could be accepted as evidence in criminal proceedings in the courts of a Member State. The United Nations itself appeared to be reluctant to waive immunity, even for serious misconduct by its personnel while serving on its missions.

101. His delegation would like to receive data from the Secretariat on the total numbers of registered cases of serious misconduct committed by United Nations personnel in the following circumstances: where the host Government asked for the waiver of the immunity of United Nations personnel, where the United Nations refused to waive the immunity of personnel, where the United Nations had asked the sending State or host State to prosecute its personnel, where the United Nations had consulted the sending State before waiving the immunity of their personnel and where the sending State had refused to accept a request by the United Nations for the waiver of the immunity of that State's nationals.

102. Member States that did not assert extraterritorial jurisdiction over crimes committed abroad by their nationals should be encouraged and assisted in updating their national laws to provide for such jurisdiction and to prosecute any misconduct of their nationals serving as United Nations officials on mission abroad. Such laws should also provide for international assistance for the investigation and prosecution of the crimes committed.

103. India's Penal Code and its Code of Criminal Procedure had provisions for addressing extraterritorial offences committed by nationals and for seeking and providing assistance in criminal matters. The Indian Extradition Act of 1962 dealt with extradition of fugitive criminals and allowed for extradition under a bilateral treaty or international convention.

104. A zero-tolerance policy for any criminal acts committed by United Nations personnel must be implemented, and measures to enforce accountability must be further strengthened so that no such crimes went unpunished and the image and work of the United Nations were not tarnished.

The meeting rose at 1 p.m.